

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

September 7, 2012

Elisabeth A. Shumaker
Clerk of Court

WILLIAM HAYES WYTTENBACH,

Plaintiff-Appellant,

v.

RANITA M. PARRISH,

Defendant-Appellee.

No. 12-4074
(D.C. No. 2:11-CV-0968-CW)
(D. Utah)

ORDER AND JUDGMENT*

Before **KELLY, TYMKOVICH, and GORSUCH**, Circuit Judges.

William Wytttenbach wants money from his former domestic partner, Ranita Parrish. Among other things, he says she breached the terms of a child custody order issued by a Texas state court and he's entitled to a refund of his child support and other payments. The district court declined the invitation to take up the case. Dismissing the suit, the court explained that it fell within the long-entrenched if judge-made "domestic relations exception" to the congressional

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2) and 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent except under the doctrines of law of the case, *res judicata* and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

statutes granting jurisdiction to the federal courts. *See generally Ankenbrandt v. Richards*, 504 U.S. 689 (1992).

The district court was undoubtedly right. Federal courts have long disclaimed responsibility for domestic relations cases, leaving the power to issue and enforce “divorce, alimony, and child custody decrees” to the states. *Id.* at 703. Neither may a plaintiff overcome the exception and win a federal forum simply by “disguis[ing] the true nature of [a domestic relations] action by claiming that [it is] a claim for damages based on a breach of contract.”

McLaughlin v. Cotner, 193 F.3d 410, 413 (6th Cir. 1999). This, however, is precisely what Mr. Wyttenbach seeks to do. While he says his suit sounds in contract, there’s no question that he would like a federal court to evaluate Ms. Parrish’s obligations under child custody arrangements negotiated in and supervised by a state court, hold that Ms. Parrish failed to comply with her obligations, and tell her to refund the money he’s paid under their agreement.

For her part, Ms. Parrish wants us not just to affirm the district court but issue sanctions. We certainly have the authority to sanction a party whose appeal is “presented for an improper purpose, such as to harass or to cause unnecessary . . . expense in the litigation.” 10th Cir. R. 46.5(B)(1) and (D). And Ms. Parrish has pointed to an array of filings by Mr. Wyttenbach in other courts that suggest his litigation here is not just meritless but designed to harass. Still, this is his first filing in this court and a mistake over the scope of our jurisdiction

is not always the same thing as seeking to harass. Of course, Mr. Wytttenbach is now fully on notice of his error and further filings in federal court on this same subject matter would be difficult to explain as consistent with any upright purpose and may well be subject to sanction.

The judgment of the district court is affirmed. Ms. Parrish's motion for sanctions is denied.

ENTERED FOR THE COURT

Neil M. Gorsuch
Circuit Judge